

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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Wiste's LLC d/b/a Wiste's Meat Market,

Civil Case No.: \_\_\_\_\_

Plaintiff,

vs.

**NOTICE OF REMOVAL**

American Select Insurance Company,

Defendant.

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**PLEASE TAKE NOTICE** that on March 4, 2019, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant American Select Insurance Company hereby removes the above-captioned action from the Third Judicial District, County of Waseca, to the United States District Court for the District of Minnesota. In support of this Notice of Removal, Defendant states:

1. This is an action against Defendant American Select Insurance Company for preaward interest on an appraisal award arising from an appraisal of a fire loss on Plaintiff's property.
2. Plaintiff provided former counsel for Defendant a copy of Plaintiff's Summons and Complaint, which are dated February 11, 2019. A copy of the Summons and Complaint are attached hereto as **Exhibit A**. These are the only process, pleadings, or orders that have been received by Defendant, to date, in this action. Presently, no state court action has been filed.

3. Removal of this case is based upon 28 U.S.C. § 1441(a), which authorizes removal of any civil action brought in state court provided that the United States District Court has original jurisdiction over such action. This Court has original jurisdiction over the above-captioned action pursuant to 28 U.S.C. §§ 1332 and 1441(b) because there is diversity of citizenship between Plaintiff and Defendant, Defendant is not a citizen of the State in which the action was commenced, and the amount in controversy exceeds \$75,000. To wit:

- a. Upon information and belief, on the date of the state court complaint, Plaintiff Wiste's LLC d/b/a Wiste's Meat Market was a citizen of Minnesota;
- b. Upon information and belief, on the date of Defendant's notice of removal, Plaintiff Wiste's LLC d/b/a Wiste's Meat Market is a citizen of Minnesota;
- c. On the date of the state court complaint, American Select Insurance Company was a citizen of Ohio; it is incorporated there and has its principal place of business there;
- d. On the date of Defendant's notice of removal, American Select Insurance Company is a citizen of Ohio; it is incorporated there and has its principal place of business there; and
- e. The matter in controversy exceeds \$75,000, exclusive of interests and costs. This case arises from an appraisal award pursuant to an insurance contract and Plaintiff's request for preaward interest on the appraisal award. Plaintiff alleges it is entitled to \$79,891.28 in interest.

4. This Court is the District Court of the United States for the District within which the state court action is pending, pursuant to 28 U.S.C. § 1441(a).

5. As required by 28 U.S.C. § 1446(d), Defendant will promptly give written notice of removal to Plaintiff by sending a file stamped copy of this Notice of Removal to Plaintiff's counsel via e-mail and U.S. Mail. Presently, no state court action has been filed and thus no notice is being sent to the Waseca County Court Administrator for the Third Judicial District of Minnesota.

6. This Notice of Removal is filed within thirty (30) days of Defendant being served with the Summons and Complaint, as required by 28 U.S.C. § 1446(d). Removal is therefore timely.

**WHEREFORE,** Defendant American Select Insurance Company removes the subject action from the Third Judicial District of Minnesota to the United States District Court for the District of Minnesota.

**BRADSHAW, FOWLER, PROCTOR &  
FAIRGRAVE, P.C.**

Dated: March 4, 2019

/s/ Caroline K. Bettis

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**BORGELT, POWELL, PETERSON  
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***Counsel for Defendant American Select  
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